

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

CIVIL ACTION NO. 04-11467-MAP

DOUGLAS DYNAMICS, LLC,
Plaintiff/Judgment Creditor

B&P SUPPLY, INC.,
Defendant/Judgment Debtor

**JUDGMENT CREDITOR'S
OPPOSITION TO DEFENDANT'S
MOTION FOR RECONSIDERATION
OF ORDER DATED APRIL 11, 2007
AND REQUEST FOR FEES**

Judgment Creditor Douglas Dynamics, LLC (“Douglas Dynamics”) hereby opposes Defendant’s Motion for Reconsideration of Order Dated April 11, 2007. In support of its Motion for Reconsideration, B&P Supply, Inc. (the “Judgment Debtor”) makes only one argument, that Judgment Debtor’s counsel of record, Jack E. Houghton, Jr., was not representing the Judgment Debtor when he received the document requests, letters and phone calls from Douglas Dynamics’ counsel, to which he made no response whatsoever. This is the same argument made by Mr. Houghton in Judgment Debtor’s opposition to Douglas Dynamics’ Motion to Compel and rejected by the Court (Neiman, J.) in its April 11, 2007 order “A motion for reconsideration is ‘an extraordinary remedy which should be used sparingly.’” *Palmer v. Champion Mortgage*, 465 F.3d 24, 30 (1st Cir. 2006) (citations omitted). “To obtain relief, the movant must demonstrate either that newly discovered evidence (not previously available) has come to light or that the rendering court committed a manifest error of law.” *Id.* at 30. Repetition of arguments previously rejected by the Court is insufficient. *See id.* (affirming lower court’s denial of motion for reconsideration where motion “did no more than reiterate the arguments [the movant] earlier had advanced”); *Davis v. Lehane*, 89 F.Supp.2d 142, 147-148 (D. Mass. 2000) (denying motion

for reconsideration where motion for reconsideration repeated arguments made in memorandum in support of original motion).

The Judgment Debtor's Motion for Reconsideration does not even purport to offer newly discovered facts or information and does not suggest that the Court's previous ruling constitutes a manifest error of law. It is bereft of any support or merit and, again, requires Douglas Dynamics to unnecessarily incur costs associated with collection of its judgment. Instead of seeking to satisfy amounts owed to the Douglas Dynamics, the Judgment Debtor has transferred its assets (Douglas Dynamics believes fraudulently) to the son of its sole shareholder, has ignored Douglas Dynamics' pre-motion-to-compel attempts to obtain information regarding its assets and now is requiring Douglas Dynamics to respond again to arguments already rejected (with good cause) by the Court.¹ For the foregoing reasons, counsel for Douglas Dynamics asks that the Motion for Reconsideration be denied and that it be awarded fees for having to oppose that motion.²

Dated: May 23, 2007

/s/ Jennifer K. Cannon

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¹ Mr. Houghton's claim that he no longer represented Douglas Dynamics is belied by the fact that he is still attorney of record in this matter, is currently representing the Judgment Debtor and recently represented the Judgment Debtor in the transfer of assets from the company between the time the initial and amended Judgment was issued.

² Douglas Dynamics also notes that the fees and costs submitted by counsel for Douglas Dynamics are in no way unreasonable and is entirely in line with what would be expected from competent and careful counsel. The fact that it involved more time than counsel for Douglas Dynamics deems was merited is of no consequence.

Certificate of Service

I hereby certify that a true copy of the foregoing document was served upon the attorney(s) of record through the Court's CM/ECF system on May 23, 2007.

/s/ Jennifer K. Cannon
Jennifer K. Cannon

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